

1986 Pat. App. LEXIS 8 printed in FULL format.

Ex parte William R. Garrett

Appeal No. 580-81 from Art Unit 245.

Application for Patent filed July 29, 1981, Serial No. 287,769, which is a Continuation-in-Part of Serial No. 187,350, filed September 15, 1980.
Fixed-Contact Stabilizer.

Board of Patent Appeals and Interferences

1986 Pat. App. LEXIS 8

September 30, 1986, Decided

[*1]

Before Henon, Craig and Lindquist, Examiners-in-Chief.

COUNSEL:

Frank S. Vaden, III et al. for appellant.
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Primary Examiner - Stuart S. Levy

Examiner - D. Werner.

OPINIONBY: LINDQUIST

OPINION:

Lindquist, Examiner-in-Chief.

This appeal is from the final rejection of claims 1 through 4, 7 through 10, 21 through 25, 27, 31 through 33, 44 through 50 and 52 through 56. Of the remaining claims in this application, claims 5, 6, 28, 29, 30 and 51 stand withdrawn from consideration and claims 11 through 20, 26, and 34 through 43 have been allowed by the examiner.

The invention pertains to a drill string stabilizer which is apparent from a reading of illustrative claim 44, reproduced below.

44. Borehole apparatus comprising

a tubular body having a flow axis,

said body having a plurality of equiaximuthally spaced substantially parallel sides [sic, sided?] slots each extending in a direction having at least a paraxial component, and

blade means received in each slot making an interference fit with the sides of the slot.

The references cited by the examiner are as follows:
Dixon et al. (Dixon) 3,680,647 Aug. 1, 1972
Bassinger 4,106,823 Aug. 15, 1978
[*2]

All the claims at bar stand rejected under 35 U.S.C. 103 as obvious. As evidence of obviousness, the examiner cites Bassinger as to claims 1 through 4, 21 through 25, 27, 44 through 50 and 52 through 56 and adds Dixon as to claims 7 through 10 and 31 through 33.

Reference is made to the brief and the answer for the respective positions of the appellant and the examiner.

OPINION

We note in passing that "said uppermost blade" in claims 2, 9, 22 and 33 lacks an antecedent basis. As noted in claim 44 reproduced above, it appears to us that "sides" should be "sided" to conform with the interpretation given the claim by the appellant and the examiner. That is to say, the appellant and the examiner have construed claim 44 as calling for plural slots each having substantially parallel sides, and so will we. The locking means at the ends of the blade components of claim 53 do not appear to be capable of locking with adjacent components and the slot ends.

We have considered the rejection of the claims at bar under section 103 in light of the respective positions of the appellant and the examiner and conclude that it cannot be sustained.

All the claims at bar require that the [*3] pockets or slots in the stabilizer body have substantially parallel sides. As disclosed in the paragraphs bridging pages 15 and 16 and pages 20 and 21 of the specification, the appellant means by this language that the pocket or slot sides are at least within a few thousands of an inch of being precisely parallel.

The examiner's contention to the contrary at the bottom of page 4 and the top of page 5 of the answer notwithstanding, sidewalls 21 and 22 of the wear blade supporting grooves of Bassinger are not substantially parallel; each is inclined at an angle of 30 degrees with respect to the other.

The examiner goes on to say at page 5 of the answer that,

"Furthermore, wear blades having parallel sides are notoriously well known in the prior art and one of ordinary skill in the art would, through routine engineering design choice, elect to provide a borehole contacting apparatus with blades having parallel sides." Since this "prior art" has not been identified and is not before us, we will not comment upon it.

With respect to the proposed modification of the Bassinger structure by further coupling the wear blades to the stabilizer body with screws or bolts of the type disclosed [*4] by Dixon, the examiner has not presented any line of reasoning as to why the artisan would have been motivated to so modify the Bassinger structure, and we know of none. The examiner's assertion at page 4 of the answer that the proposed modification would have been "an obvious matter of engineering design choice well within the level of skill of one of ordinary

"skill in the art" is a conclusion, rather than a reason.

Accordingly, the rejection of claims 1 through 4, 7 through 10, 21 through 25, 27, 31 through 33, 44 through 50 and 52 through 56 under 35 U.S.C. 103 is reversed.

REVERSED